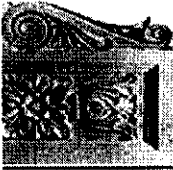


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John Hebert/DC/USEPA/US
03/04/2005 11:18 AM

To Norman Spurling/DC/USEPA/US@EPA
cc Dan Peacock/DC/USEPA/US@EPA
bcc
Subject Fw: horned lark poisoning

History: This message has been replied to.

norm - the article i mentioned to you is below. the chemical in question is zinc phosphide.

thanks.
john

----- Forwarded by John Hebert/DC/USEPA/US on 03/04/2005 11:18 AM -----



Dan Peacock/DC/USEPA/US
03/04/2005 10:53 AM

To John Hebert/DC/USEPA/US@EPA
cc
Subject Re: Fw: horned lark poisoning

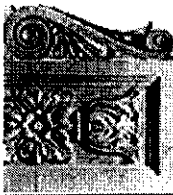
John,

Since the article says that Federal officials [Robert Prieksat of Pierre, a law enforcement officer with U.S. Fish and Wildlife Service] are investigating the incident, it should eventually make it into our adverse data base. Forwarding the information to EFED now would give them an earlier "heads up".

Thank You,

Daniel B. Peacock, Biologist
Insecticide-Rodenticide Branch
Registration Division (7504C)
1200 Pennsylvania Ave. NW
Washington, DC 20460

Tel: 703-305-5407
Fax: 703-305-6596
E-Mail: peacock.dan@epa.gov
John Hebert/DC/USEPA/US



John Hebert/DC/USEPA/US
03/03/2005 05:41 PM

To Dan Peacock/DC/USEPA/US@EPA
cc
Subject Fw: horned lark poisoning

Dan - I received this from an Audubon Chapter in South Dakota. I also talked with her; should we pass it along to EFED? What do you think?

john

*Received this &
NS forwarded this
email to N. Mastota
3/4/05*

Personal privacy information

----- Forwarded by John Hebert/DC/USEPA/US on 03/03/2005 05:26 PM -----



[REDACTED]
03/03/2005 04:59 PM

To John Hebert/DC/USEPA/US@EPA
cc
Subject horned lark poisoning

[REDACTED] to John Hebert,

Here is an article from Rapid City Journal about suspected Horned Lark poisoning, with zinc phosphide as suspected cause of death,

-- However the results from the lab were inconclusive, as the birds bodies were too decomposed for the lab to determine the cause of death.

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Last Updated: Tuesday, October 19, 2004 11:17 PM MDT

The horned lark, a small, brownish bird, can be identified by its black "horns" (feather tufts), a white or yellowish face and throat, a broad, black stripe under the eyes and a black bib. (Photo courtesy Doug Backlund)

Bird deaths near site of poisoning prompt probe

By Steve Miller, Journal Staff Writer

Federal law enforcement officials are investigating the deaths of three horned larks found near an area where a state contractor had placed prairie dog poison north of Badlands National Park.

Killing the horned larks, even unintentionally, could violate the federal Migratory Bird Treaty Act, according to Robert Prieksat of Pierre, a law enforcement officer with U.S. Fish and Wildlife Service. Horned larks migrate south for the winter.

Art Smith of the state Game, Fish & Parks Department, who is overseeing state prairie dog poisoning on private land near the federal grassland, said state crews are following federal rules for using the prairie dog poison zinc phosphide.

The state poisoning on private land is the first of two

poisoning projects to keep prairie dogs on Buffalo Gap National Grassland in western South Dakota from encroaching onto adjacent private ranches.

The state effort is nearly finished. A separate state-federal poisoning effort on the federal side of the fence in those areas is beginning this week.

U.S. Forest Service crew members preparing for the second poisoning project found the three dead horned larks on Sept. 1. The three dead birds were lying along a fence line separating federal grassland and private land that had been poisoned for prairie dogs north of Badlands National Park, according to Bill Perry, Wall District ranger. The three dead birds were kept in frozen storage at the district office in Wall until Monday, when Vance Jurgens of Rapid City, another law enforcement officer with the Fish & Wildlife Service, picked them up. Jurgens said he would send the dead birds to a lab in Oregon for testing. He wasn't sure how long it would take to get test results. Jurgens said if the birds test positive for zinc phosphide, the investigation would continue.

Jurgens and Prieksat said Monday they had not yet contacted state GF&P officials involved in the poisoning project.

There was no evidence the birds had been shot, Jurgens said.

Prieksat said the poisoning has the potential to be a crime because the migratory bird act is a strict liability law, meaning intent is no defense for violating the law.

He said an accidental killing of horned larks or other birds protected by the federal law would not be a crime.

But Prieksat said doing something intentionally that

contains a known risk to wildlife could result in prosecution. "If you're putting out a poison, you're required to read that label, and if the label cautions you on what can happen and you go ahead with it, you've accepted that responsibility, in my opinion."

However, GF&P's Smith said he is sure the state crews are following the federal requirements for using zinc phosphide to poison prairie dogs.

Mike Kintigh, regional supervisor for GF&P in Rapid City, said the contractor putting down the prairie dog poison has been doing such work for years under the supervision of the state Agriculture Department with no problem. "He's always done it by the label," Kintigh said.

It is not uncommon for horned larks to be killed by prairie dog poison, Daniel Uresk of the Forest Service's Rocky Mountain Research Station in Rapid City said. Uresk has done research on prairie dogs in Conata Basin south of Badlands National Park.

GF&P's Smith acknowledges that the poison is highly toxic to grain-eating and seed-eating birds such as the horned lark.

"There is a small chance of accidental poisonings," Smith said. "This happens with practically anything you put down. That's a calculated risk. The best we can do is follow the label restrictions."

Smith said crews try to minimize the risk by putting poisoned grain only near occupied prairie dog holes.

He said horned larks are not a threatened species. "It is a very healthy nationwide population," Smith said.

Smith said even if a few birds are poisoned, it would not change the poisoning operation in western South Dakota.

He said state officials have checked with U.S. Fish & Wildlife Service officials about the state poisoning effort.

Meanwhile, the state GF&P is also overseeing the separate effort, just beginning, to poison prairie dogs on the federal side of the fence, on Buffalo Gap National Grassland. GF&P is acting, in essence, as an agent for the U.S. Animal and Plant Health Inspection Service, a branch of the U.S. Department of Agriculture. The Forest Service administers the federal grasslands.

Ironically, the U.S. Fish & Wildlife Service, along with APHIS and the Forest Service, agreed to the poisoning project on the federal grassland as part of a federal court settlement in Denver on Oct. 6.

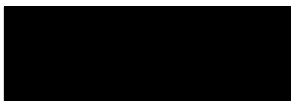
A coalition of environmental and wildlife groups had sued to stop the poisoning.

The poisoning project on federal land got started Monday in Fall River County but was held up temporarily by some technical questions, the GF&P's Kintigh said Tuesday. It could resume as early as today.

Contact Steve Miller at 394-8417 or steve.miller@rapidcityjournal.com

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to debbie.renner@rapidcityjournal.com.
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Personal privacy information

Black Hawk, SD 57718



phone and fax and voice mail and internet hook up
alternate phone

I have call waiting and "no answer" may mean both lines in use
(call before faxing)



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